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CITIZENS' LAW ENFORCEMENT REVIEW BOARD

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REGULAR MEETING AGENDA

TUESDAY, JUNE 10, 2014, 5:30 P.M.

San Diego County Administration Center

1600 Pacific Highway, Room 302/303, San Diego, 92101

(Free parking is available in the underground parking garage, on the south side of Ash Street, in the 3-hour public parking spaces.)

Pursuant to Government Code Section 54954.2 the Citizens' Law Enforcement Review Board will conduct a meeting at the above time and place for the purpose of transacting or discussing business as identified on this agenda. Complainants, subject officers, representatives or any member of the public wishing to address the Board on any of today's agenda items should submit a "Request to Speak" form to the Administrative Secretary prior to the commencement of the meeting.

DISABLED ACCESS TO MEETING

A request for a disability-related modification or accommodation, including auxiliary aids or services, may be made by a person with a disability who requires a modification or accommodation in order to participate in the public meeting. Any such request must be made to Ana Becker at (619) 238-6776 at least 24 hours before the meeting.

WRITINGS DISTRIBUTED TO THE BOARD

Pursuant to Government Code 54957.5, written materials distributed to CLERB in connection with this agenda less than 72 hours before the meeting will be available to the public at the CLERB office located at 555 Union Street, Ste. 505, San Diego, CA.

1. ROLL CALL**2. MINUTES APPROVAL**

- a) Minutes of the April 2014 Regular Meeting (*Attachment A*)

3. PRESENTATION / TRAINING

- a) *Detention Medical Services and Suicide Prevention* by Dr. Alfred Joshua, Medical Director - Sheriff's Detentions

4. EXECUTIVE OFFICER'S REPORT

- a) Workload Report - Open Complaints/Investigations Report (*Attachment B*)
- b) Outreach Activities

-continued on next page-

5. NEW BUSINESS

- a) Board Member Recognition

6. UNFINISHED BUSINESS

- a) 2011 Annual Report

7. BOARD MEMBER COMMENTS

8. PUBLIC COMMENTS

- a) This is an opportunity for members of the public to address the Board on any subject matter that is within the Board's jurisdiction. Each speaker should complete and submit a "Request to Speak" form to the Administrative Secretary. Each speaker will be limited to three minutes.

9. SHERIFF / PROBATION LIAISON QUERY

10. CLOSED SESSION

- a) **Request for Reconsideration** – Pursuant to CLERB Rules & Regulations: 16.9 Reconsideration of Final Report. Upon request by the complainant, subject officer or their representatives, the Final Report may be re-opened for reconsideration by the Review Board provided that: (a) previously unknown relevant evidence is discovered which was not available to the Review Board before it issued its Final Report, and; (b) there is a reasonable likelihood the new evidence will alter the findings and recommendations contained in the Final Report.
 - 13-076 / Gilchrist
- b) **Discussion & Consideration of Complaints & Reports / Officer Discipline Recommendation:** Pursuant to Government Code Section 54957 to hear complaints or charges brought against Sheriff or Probation employees by a citizen (unless the employee requests a public session). Notice pursuant to Government Code Section 54957 for deliberations regarding consideration of subject officer discipline recommendation (if applicable).
 - 13-080 / McCord (Sustained – Deputy 1, Deputy 2)

DEFINITION OF FINDINGS	
Sustained	The evidence supports the allegation and the act or conduct was not justified.
Not Sustained	There was <u>insufficient evidence</u> to either prove or disprove the allegation.
Action Justified	The evidence shows the alleged act or conduct did occur but was lawful, justified and proper.
Unfounded	The evidence shows that the alleged act or conduct did not occur.
Summary Dismissal	The Review Board lacks jurisdiction or the complaint clearly lacks merit.

CASES FOR SUMMARY HEARING (16)

ALLEGATIONS, RECOMMENDED FINDINGS & RATIONALE

11-101

1. Death Investigation / Officer Involved Shooting – Probation Officer 1 and other law enforcement officers shot and killed Dejon White.

Recommended Finding: Action Justified

Rationale: There was no complaint of wrongdoing in this death investigation. Dejon White had been identified as the suspect involved in a series of incidents, including the fatal shooting of a San Diego Police Officer. San Diego Police Air Borne Law Enforcement helicopter (ABLE) broadcast they observed White enter a vehicle, armed with a shotgun. ABLE then directed law enforcement units, including that of Probation Officer 1, to block the path of the suspect vehicle. Officers fired on White's vehicle as it came to a stop and the driver's door opened; officers reported they observed White raise a shotgun from the passenger seat area. White was pronounced dead at the scene, and the Medical Examiner determined the Cause of Death to be gunshot wounds of the head and shoulder, and the Manner of Death a homicide. The evidence showed the actions of Probation Officer 1 and other law enforcement officers were in direct response to White's unlawful behavior, and the use of deadly force was necessary, lawful, justified, and proper.

13-027

1. Death Investigation / Suicide – Deputies 1 and 2 discovered Inmate Jose Sierra hanging in his cell from a bed sheet.

Recommended Finding: Sustained

Rationale: There was no complaint of wrongdoing, and a review was done in accordance with CLERB Rules & Regulations. During a security check, Deputies 1 and 2 discovered Sierra hanging from a bed-sheet in his single occupancy, locked cell; he was transported to UCSD Medical Center where he later was pronounced dead. During the previous security check, Deputies 1 and 2 observed an unauthorized laundry line affixed to the top bunk in Sierra's cell, and failed to take corrective action per Sheriff's Policies & Procedures. Deputies 1 and 2 failed to remove the unauthorized laundry line or confront Sierra to direct its removal, actions which may have prevented Sierra from carrying out the suicide at that time. The Medical Examiner determined the cause of death was due to hanging, and the manner of death as suicide. The evidence confirmed the actions of the deputies and the conduct was not justified.

13-029

1. Misconduct/Procedure – Deputy 1 failed to respond to the complainant's grievances concerning the loss of his dentures and other toiletry items while at George Bailey Detention Facility.

Recommended Finding: Sustained

Rationale: The complainant submitted a lost property grievance on September 2, 2012, but it was only partially responded to by Deputy 1 on September 6, 2012. Deputy 1 forwarded the grievance to George Bailey Detention Facility (GBDF) Medical to address the dentures claim, but took no action regarding missing commissary items. Detentions Policies and Procedures Q.63, Lost Inmate Money or Property, states the Watch Commander will be advised of claims for missing property, shall ensure that an investigation is conducted into the claim, and if unable to resolve, a Lost Property Crime report would be completed within the shift hours. Deputy 1 did not notify the Watch Commander nor was a crime report initiated which precluded further investigation into the missing property. The evidence supported the allegation and the conduct was not justified.

2. Misconduct/Procedure – Deputy 3 failed to respond to the complainant's grievances about module property discovered missing upon transfer.

Recommended Finding: Sustained

Rationale: The complainant stated he submitted a number of requests concerning property lost during his

transfer from GBDF to Vista Detention Facility (VDF). Receiving no response, ten days after his transfer to GBDF he submitted a Grievance/Inmate Request form which was forwarded to GBDF to report the lost or missing property. The investigation was unable to determine the identification of the deputy receiving the grievance because the grievance was not annotated with the deputy's name and ARJIS number per Detentions Policies and Procedures N.3, Grievance Procedures. The grievance process was interrupted when it was forwarded to the transferring facility, resulting in a response outside the requisite seven calendar day response time. Additionally, the processing delay prevented an immediate inquiry into the lost property per Detentions Policies and Procedures Q.63, Lost Inmate Money or Property. The evidence supported the allegation that Deputy 3 failed to respond to the complainant's grievance in a timely manner, and the conduct was not justified.

3. Misconduct/Procedure – Deputy 2 allowed Vista Detention Facility inmate workers to take the complainant's toiletry items at the conclusion of a cell search.

Recommended Finding: Not Sustained

Rationale: Deputy 2 denied he allowed VDF inmate workers to take the complainant's property following an inspection. Deputy 2 reported that the only items removed from cells were extra clothing, food trays, and books not properly labeled, and these items were made available for search by inmates prior to having them removed by inmate workers. Additionally, inmate workers were reportedly searched to ensure they did not have property on their persons that did not belong to them. There were no audio or video recordings available to document this event, and there was insufficient evidence to prove or disprove the allegation.

13-030

1. Illegal Search or Seizure – Deputy 4 entered the complainant's residence.

Recommended Finding: Action Justified

Rationale: Deputy 4, team leader for "Operation Tip the Scale," deputies, and probation officers, entered the complainant's residence to conduct a compliance check for a probationer residing in the home. California case law permits warrantless entry to any property under a probationer's control without any particularized suspicion. The probationer had previously waived his Fourth Amendment Rights under the U.S. Constitution, and as such, entry into the residence was permissible. Officers knocked, announced their purpose, and were granted entry by the probationer's spouse. The evidence showed the act did occur, but was lawful, justified and proper.

2. Excessive Force – Deputy 4 grabbed the complainant by the throat and pushed him into a chair.

Recommended Finding: Not Sustained

Rationale: The complainant stated Deputy 4 grabbed him by the throat and led him toward the front living area of his home. Deputy 4 denied grabbing the complainant by the throat; reporting that he held the complainant's arm as he moved him to the living room, and then requested that he sit in a chair. Because the complainant refused to cooperate, Deputy 4 reportedly grabbed the complainant's upper chest area near his collarbone and his hand slid from collar bone to his neck area, but he denied that he squeezed or applied pressure to the neck. Sheriff's Policy and Procedure 6.48, Physical Force, and the Use of Force Addendum, permits the use of hands-on control to overcome resistive or aggressive behavior; however, officer and civilian witness accounts of whether Deputy 4 grabbed the complainant's throat were in dispute. There was insufficient evidence to prove or disprove whether the level of force used was reasonable and necessary.

3. Illegal Search or Seizure – Deputy 4 handcuffed the complainant.

Recommended Finding: Action Justified

Rationale: Deputy 4 reported the complainant was detained in handcuffs because he was uncooperative and refused to comply with direction given by deputies. California case law allows for the constitutional detention of occupants in a home during a probation compliance search, and authorizes officers to use such steps

reasonably necessary to protect personal safety. The evidence showed that handcuffing and detention of the complainant were reasonable steps to protect personal safety, and were legal, justified and proper.

4. Illegal Search or Seizure – Deputies 3 and 4 searched areas of the complainant’s home that were not subject to a 4th Amendment waiver search.

Recommended Finding: Action Justified

Rationale: Deputies 3 and 4 denied they conducted a search of areas not subject to the probationer’s 4th Amendment waiver terms. Deputies did conduct a protective sweep of the residence to determine if anyone was in the residence that might constitute a danger; a sweep permitted under California case law. Deputy 3 also conducted a search of the probationer’s bedroom and common areas in accordance with the terms of his probation. The act did occur but was lawful, justified and proper.

5. Illegal Search or Seizure – Deputies 1, 2, and 5 searched areas of the complainant’s home that were not subject to a 4th Amendment waiver search.

Recommended Finding: Not Sustained

Rationale: Deputy 1 supervised the contact and entered the residence, but denied he participated in any search. Deputy 2’s initial assignment was outside the residence, and although he later entered the residence, he denied he participated in any type of search. Deputy 5 did not recall the incident or being at the residence during this contact. There is insufficient evidence to prove or disprove the allegation.

6. Misconduct/Procedure – Deputies 1 and 4 did not provide their names when requested.

Recommended Finding: Not Sustained

Rationale: The complainant stated that Deputy 4 asked for his identification, and in turn he asked for Deputy 4’s name. Civilian witnesses recounted the conversation about the complainant’s identification and stated that the complainant requested the names of Deputies 1 and 4. Deputy 1 denied the complainant asked his name, and Deputy 4 did not recall such a request. There was insufficient evidence to prove or disprove the allegation.

13-030.1

1. Illegal Search or Seizure – Probation Officers 1, 2, and 3 searched areas of the complainant’s home that were not subject to a 4th Amendment waiver search.

Recommended Finding: Action Justified

Rationale: Probation Officers 1-3 denied they conducted a search of areas not subject to the probationer’s 4th Amendment waiver terms. Probation Officers 1-3 did conduct a protective sweep of the residence to determine if anyone was in the residence that may have constituted a danger; a sweep permitted under California case law. Probation Officers 2 and 3 also conducted a search of the probationer’s bedroom and common areas, in accordance with the terms of his probation. The actions of the Probation Officers did occur, but were lawful, justified and proper.

13-031

1. Misconduct/Procedure – San Diego Sheriff’s Department held the complainant in an intake holding cell for approximately 72 hours after his arrest.

Recommended Finding: Sustained

Rationale: The complainant was held in San Diego Central Jail (SDCJ) booking/holding areas for approximately 61 hours prior to assignment to a housing unit. Detentions Policies and Procedures R.1, Inmate Classification, states that, “Inmates should be classified as soon after booking as possible, but in any event, prior to being assigned to a housing area.” Sheriff’s Department records indicated the complainant completed

the booking process approximately 7 hours after arrival, but was not classified and assigned to housing for another 54 hours. A Departmental Information Source reported that staff shortages, limited bed space, and special housing requirements may attribute to delays in moving an inmate into housing; however, this investigation was unable to determine the cause for delay. Department Information Sources also reported that new procedures have been implemented to track the inmate intake progress, and additional measures are under consideration to improve housing assignments. The evidence supports the allegation and the act was not justified.

2. Misconduct/Procedure – Deputy 1 refused to provide the complainant with a cane while he was incarcerated.

Recommended Finding: Not Sustained

Rationale: The complainant stated he requested Deputy 1 provide him with a cane, yet he was unable to provide identification of accused member(s). The necessity for use or issue of medically indicated equipment is determined by Sheriff's Medical personnel. The complainant did not possess a cane when he was booked into jail, and there were no audio or video recordings that revealed communications with Deputy 1 regarding a cane. There was insufficient evidence to either prove or disprove the allegation.

13-035

1. Excessive Force / Other – Deputies 1 and/or 2 slammed the handcuffed complainant into the concrete, and then struck her in the head, jaw, and lower lip during their struggle.

Recommended Finding: Action Justified

Rationale: The complainant said a deputy was putting on a handcuff, when another deputy attacked her from behind, yanked her down onto the concrete, and she was subsequently hit in the jaw and lip area while her eyes were closed. The Arrest Report described the actions of the deputies, who reported the complainant did not comply with their directives and resisted their efforts to subdue her. The report also documented a minor cut on the complainant's lip, which was corroborated by photographs and medical records, and reportedly happened when the complainant's lip hit a deputy's belt during their struggle. Deputies are empowered to utilize force to effect a legal arrest, and the evidence showed the force used by the involved deputies was lawful, based on Sheriff's Policies & Procedures and Case Law.

2. Excessive Force / Taser – Deputy 2 rolled the complainant into a mud puddle and deployed a Taser.

Recommended Finding: Action Justified

Rationale: The complainant said deputies rolled her into a giant mud puddle, jumped away, and tased her. When threatened with a second Taser application, she said she attempted to raise her hands in a "surrender" position. A dependent witness said the arrest site was muddy and she observed mud on the complainant. Taser Operating Manuals clarified that exposure to water will not cause electrocution, or increase the electrical power transmitted to a subject. Deputy 2 reported the complainant swung an elbow toward his head and disobeyed his repeated commands to stay on the ground. Believing an assault was imminent, Deputy 2 deployed a Taser for 5 seconds at a distance of approximately 7 feet. Tasers are used to subdue and gain control of suspects displaying assaultive behavior. The evidence showed the Taser deployment was lawful, justified and proper to effect an arrest on a non-compliant subject.

3. False Arrest – Deputy 2 arrested the complainant for resisting arrest.

Recommended Finding: Action Justified

Rationale: The complainant acknowledged that she had a warrant and said she was "surrendering control when they (deputies) attacked her for nothing." Deputy 2 attempted to take the complainant into custody per the warrant when she resisted, resulting in a use of force and an additional violation of PC§ 148(a)(1), Obstructing/Resisting a Peace Officer. The complainant's arrest was lawful justified and proper.

13-056

1. Criminal Conduct – Deputy 1 released confidential information to an unauthorized person.

Recommended Finding: Summary Dismissal

Rationale: The complainant formally withdrew the complaint against Deputy 1 on April 18, 2014. A complaint may be withdrawn from further consideration at any time by a written notice of withdrawal signed and dated by the complainant. CLERB no longer has authority to investigate this complaint based upon CLERB Rules & Regulations: 5.7 Withdrawal of Complaints.

13-059

1. False Arrest – Probation Officer 1 re-arrested the complainant's son for violation of probation terms.

Recommended Finding: Action Justified

Rationale: Probation Officer 1 re-arrested the complainant's probationer son for violation of Penal Code § 3455, Postrelease Community Supervision; Revocation, because the probationer resisted arrest, failed to follow instructions, and failed to submit to 4th Waiver Searches, as required by the terms of his Postrelease Community Supervision. The evidence showed the alleged act did occur, but was lawful, justified and proper.

2. Misconduct/Procedure – Probation Officer 1 failed to document the official residence of the complainant's son resulting in Oceanside Police Department's (OPD) attempt to search her residence.

Recommended Finding: Unfounded

Rationale: The complainant stated that Probation Officer 1 had not recorded the probationer's address of record, which resulted in OPD demanding access to conduct a search of her residence. Probation records did reflect that the probationer's address of record was not that of the complainant; however OPD reported that they observed the probationer enter the complainant's residence, and unsuccessfully attempted to contact him. The attempted contact by OPD manifested no relationship to the Probation Department's documented address of record, and the evidence showed that the alleged act did not occur.

3. Illegal Search or Seizure – Probation Officer 1 demanded to search the complainant's locked private quarters.

Recommended Finding: Action Justified

Rationale: The complainant objected to any law enforcement efforts to enter her locked private quarters during probation compliance checks. OPD notified Probation Officer 1 that family members refused access to conduct 4th waiver compliance check, after which, Probation Officer 1 contacted the complainant at her residence. Probation Officer 1 explained that all law enforcement officials could enter the residence to search the probationer's living space and common areas, and were authorized to conduct a protective sweep of the entire residence to determine if anyone was present that may have constituted a danger; a sweep permitted under California case law. The evidence showed the actions of the Probation Officer 1 were lawful, justified and proper.

13-060

1. Excessive Force – Deputies 1-3 used force on the aggrieved causing injury.

Recommended Finding: Action Justified

Rationale: During a strip search conducted to prevent contraband from entering jail facilities, the aggrieved was observed shielding an unknown object in his genital area. Deputies isolated the aggrieved in a holding cell to further investigate and reportedly directed the aggrieved to stand, face the wall, and drop his hands. Surveillance video provided irrefutable evidence that the aggrieved was non-compliant, resulting in an unsuccessful attempt by Deputies 2 and 3 to force his arms to his side. Deputy 3 subsequently used Department

approved hand controls, and fist strikes, in an attempt to subdue him. Deputy 1 deployed his taser and the aggrieved became compliant. A 4-inch metal shank was recovered after the aggrieved was handcuffed. The aggrieved's non-compliance necessitated deputy involvement to overcome resistance per Department Procedure I.89, Use of Force, and their actions were lawful, justified and proper.

2. Misconduct/Medical – The aggrieved did not receive follow-up medical care after a use of force incident.

Recommended Finding: Summary Dismissal

Rationale: Sheriff's medical records were reviewed and detailed the complainant's medical treatment received after the use of force, as well as his subsequent medical care following this incident. However, medical care and treatment are performed by non-sworn personnel over whom CLERB has no authority. Since the Review Board lacked jurisdiction, this matter was referred to the Sheriff's Department at the onset of this investigation.

13-077

1. Misconduct/Procedure – Deputy 2 kicked the complainant's phone and purse across the floor.

Recommended Finding: Unfounded

Rationale: The complainant said Deputy 2 was irritated with her and knocked her phone across the floor and kicked her purse. Deputy 2 reported that he was forced to effect an arrest when the complainant refused to obey his repeated commands to leave a store for causing a disturbance. Store surveillance video captured portions of this incident and refuted the complainant's statement. Deputy 2 reportedly dropped the complainant's cell phone into her purse, and a store employee "foot-swept" the purse away from the immediate area. The evidence shows that the alleged conduct attributed to Deputy 2 did not occur.

2. Misconduct/Procedure – Deputy 2 twisted the complainant's arms and wrists for approximately three minutes while applying handcuffs.

Recommended Finding: Action Justified

Rationale: The complainant said Deputy 2 told "the other officer" that his handcuffs were not working. Deputy 2 said the complainant would not comply with his request to place her hands behind her back and instead struggled, until he was able to secure a handcuff approximately one minute later. Video recordings corroborated Deputy 2's delay in securing/arresting the complainant due to her willful resistance and obstruction, and the subsequent arrival of Deputy 1 after she was handcuffed. Handcuffing the complainant incident to her arrest, was reasonable and proper; any delay in doing so was attributed to the complainant's active resistance.

3. Misconduct/Discourtesy – Deputy 2 said the complainant had a potty mouth.

Recommended Finding: Action Justified

Rationale: The complainant stated Deputy 2 called her "pottymouth" with no further explanation. Deputy 2 explained that he used childhood verbiage in an attempt to de-escalate the situation when the complainant's speech was loud and heavily-laced with profanities in a public area frequented by women and children. Given the terminology and/or situation, there was no violation of Sheriff's Policy & Procedures and the deputy's response was proper.

4. Excessive Force/Other – Deputy 2 twisted the complainant's arms until she passed out; she awoke when she was slammed into a vehicle.

Recommended Finding: Action Justified

Rationale: The complainant believed she was mistreated by Deputy 2 and said this incident put her in a "daze." Deputy 2 reported, and security personnel along with video recordings corroborated, the complainant's resistance upon arrest. Deputy 2 said he utilized pressure to gain compliance in accordance with departmental approved techniques. Deputy 1 reported he did not observe Deputy 2 do anything inappropriate during this incident and said the complainant's behavior was consistent with someone suffering from possible mental

illness. Deputy 2 reported he did not “twist” the complainant’s arms, but utilized arm guidance during escort out of the store. He denied the complainant ever lost consciousness and/or was slammed into a vehicle. Afterwards the complainant sought medical treatment; documentation indicated no evidence of a fracture, misalignment, and/or soft tissue abnormality, but possible distress due to a prior injury and/or surgery. The level of force reported and utilized by Deputy 2 to effect the complainant’s arrest was necessary and proper.

5. Illegal Search & Seizure – Deputy 2 searched the complainant’s purse and/or vehicle without permission.

Recommended Finding: Action Justified

Rationale: The complainant said Deputy 2 instructed Deputy 1 to search her purse and vehicle. Deputy 1 denied examining the complainant’s purse and/or vehicle and said Deputy 2 conducted the searches. Reportedly, the complainant refused to identify herself, so her identification was removed and verified by Deputy 2. In preparation for the uncooperative complainant’s transport for processing, her vehicle was checked to ensure a minor, a pet, or perishable items would not be left behind. Deputy 2 had authority to search the complainant’s purse and vehicle incident to her arrest and his actions were lawful, justified and proper.

13-083

1. Misconduct/Discourtesy – PO 1 was rude and argumentative during a conversation with the complainant about his cell phone.

Recommended Finding: Not Sustained

Rationale: PO 1 denied that she spoke in a rude or argumentative manner during her conversation with the complainant. She reported that she spoke calmly, in an effort to explain the rules related to cell phone use, but her efforts were met with very disrespectful and argumentative language from the complainant. Per PO 1, the complainant continually interrupted her, and would not allow her to finish her sentences, becoming increasingly louder and condescending in his tone. There are two versions of this conversation between the complainant and PO 1. There was, however, no video or audio recording of this conversation, leaving insufficient evidence to either prove or disprove the allegation.

2. Misconduct/Procedure – PO 1 terminated the complainant from his work assignment because she “didn’t like his attitude.”

Recommended Finding: Action Justified

Rationale: PO 1 reported that the complainant became increasingly disrespectful and argumentative during their conversation, and her efforts to de-escalate the situation by speaking calmly to the complainant were unsuccessful. The complainant was given opportunities to settle down, but continued to escalate, requiring PO 1 to excuse him from his Public Service Work for the day. Rules contained in the Probation Public Service Worker Information Packet provided to the complainant, provide for the disciplinary removal of a Public Service Worker from the crew and/or termination from the program for being disrespectful. PO 1 terminated the complainant’s work assignment because he was disrespectful and argumentative, and her actions were lawful, justified and proper.

3. Misconduct/Discourtesy – PO 1 was very rude and “nastily” admonished the complainant for engaging a client in a non-work related conversation.

Recommended Finding: Not Sustained

Rationale: The Probation Public Service Worker Information Packet provided to the complainant, contained rules that, in part, prohibited Probation Service Workers from having contact with the public while working on crew. The complainant acknowledged that he was speaking with an elderly woman while on crew, while clerical staff reported to PO 1 that the complainant had been socializing and talking to more than one person in the lobby. PO 1 reported that she instructed the complainant to not have conversations with people in the lobby, and did so in a professional manner that was not rude or inappropriate. There was no video or audio recording of this conversation, leaving insufficient evidence to either prove or disprove the allegation.

14-008

1. Discrimination – Deputy 1 “racially profiled” the aggrieved accusing him of stealing a cell phone.

Recommended Finding: Unfounded

Rationale: Deputy 1 was investigating the on-campus theft of a student’s cell phone, when she observed the aggrieved and his friend, surrounded by approximately ten other African-American males, respond with suspicious behavior upon seeing her approach. Deputy 1’s suspicions were further aroused, when the aggrieved asked her about the stolen cell phone before the subject was even broached. The aggrieved’s actions caused Deputy 1 to believe that he may have been involved in the theft or knew about the theft, so she escorted him and his friend to the school’s main office for further questioning. Deputy 1 denied that she contacted the aggrieved because he was African-American; that her contact and subsequent questioning of the aggrieved was based solely on his body language, actions and reference to the stolen phone. The aggrieved’s speculations as to Deputy 1’s motives are unsupported, and the evidence showed that the alleged act or conduct did not occur.

2. Illegal Seizure – Deputy 1 detained the aggrieved.

Recommended Finding: Action Justified

Rationale: Deputy 1 was investigating the on-campus theft of a student’s cell phone, when she observed the aggrieved respond with suspicious behavior upon seeing her approach. The aggrieved’s unsolicited query about the stolen cell phone prior to the subject being broached, further aroused Deputy 1’s suspicions, creating reasonable suspicion in her mind that the aggrieved may have been involved in the theft of the phone, or had information useful to her investigation. For a detention to be valid, law enforcement personnel must have "reasonable suspicion" that: (1) criminal activity may be afoot and (2) the person you are about to detain is connected with that possible criminal activity. Deputy 1 had reasonable suspicion to escort the aggrieved to the school’s main office where he was temporarily detained for further questioning by the school’s administration. The evidence showed the alleged act did occur, but was lawful, justified and proper.

14-019

1. Misconduct/Procedure – Deputy 1 failed to respond to the complainant’s grievance regarding his mail.

Recommended Finding: Action Justified

Rationale: The complainant filed two grievances, two days apart regarding identical matters related to inmate mail. One issue grieved related to service fees charged for depositing money into his inmate account, while the other issue addressed the Sheriff’s Department’s restrictions on in-coming personal mail to post cards only. Deputy 1 responded to the complainant’s first filed grievance, informing the complainant that the deputies have no control over the service fees required to deposit monies. He further informed the complainant that Sheriff’s Detention Policy limited in-coming personal mail to post card correspondence only. The evidence showed that Deputy 1 appropriately responded to the complainant’s grievance, and acted within policy with actions that were lawful, justified and proper.

14-029

1. False Arrest – Deputy 1 arrested the aggrieved using a faulty or forged arrest warrant.

Recommended Finding: Summary Dismissal

Rationale: The complainant alleged that Deputy 1 arrested the aggrieved using a faulty or forged arrest warrant. Sheriff’s records showed that the aggrieved’s arrest was supported by an Arrest Warrant legally issued by the San Diego Superior Court. The alleged misconduct by Deputy 1 was not supported by evidence, and therefore the complainant failed to establish a prima facie showing of misconduct. Such complaints may be referred to the

14-030

1. Misconduct/Procedure – Deputy 1 failed to properly investigate a criminal complaint.

Recommended Finding: Summary Dismissal

Rationale: The complainant alleged on behalf of the aggrieved, that Deputy 1 failed to properly investigate a criminal complaint. The aggrieved was contacted regarding this complaint and reported that Deputy 1 conducted himself properly throughout his investigation of her case. The alleged misconduct by Deputy 1 was not supported by evidence and contradicted by the aggrieved; therefore, the complainant failed to establish a prima facie showing of misconduct. Such complaints may be referred to the Review Board for Summary Dismissal, pursuant to CLERB Rules & Regulations: Section 9: Investigation of Complaints; Subsection 9.2: Screening of Complaints.

End of Report